

## NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, and Chapter 107 of the Session Acts of 2022, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

**Thursday | December 29, 2022 | 3:00 p.m.**  
**VIA REMOTE ACCESS: 1-646-741-5292**  
**MEETING ID/ PARTICIPANT CODE: 112 700 2692**  
**All meetings are streamed live at [www.massgaming.com](http://www.massgaming.com).**

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on [www.massgaming.com](http://www.massgaming.com).

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

### **PUBLIC MEETING - #417**

1. Call to Order – Chair Judd-Stein
2. Sports Wagering Process Requests
  - a. Approval of Form for Request for Temporary Licensure – Karen Wells, Executive Director **VOTE**
  - b. Voluntary Self Exclusion Database Funding Request – Derek Lennon, Chief Financial Officer **VOTE**
3. Discussion: Commissioner Process Review for Category 3- Untethered Sports Wagering Applications – Chair Judd-Stein; Karen Wells, Executive Director; Crystal Beauchemin, Chief Administrative Officer to the Chair
4. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at [www.massgaming.com](http://www.massgaming.com) and emailed to [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us). Posted to Website: December 27, 2022 | 2:00 p.m. EST

December 27, 2022

*Cathy Judd-Stein*  
Cathy Judd-Stein, Chair

*If there are any questions pertaining to accessibility and/or further assistance is needed, please email  
[crystal.beauchemin@massgaming.gov](mailto:crystal.beauchemin@massgaming.gov).*



# MASSACHUSETTS GAMING COMMISSION

## REQUEST FOR A TEMPORARY LICENSE TO CONDUCT SPORTS WAGERING

(PLEASE COMPLETE EACH SECTION OF THIS REQUEST)

### BACKGROUND

NAME OF ENTITY:

D/B/A:

NAME AND TITLE OF INDIVIDUAL FILING THIS REQUEST:

DATE FOUND PRELIMINARILY SUITABLE BY MGC:

(PLEASE CHECK ONE) ENTITY IS A 'QUALIFIED GAMING ENTITY' AS IT:

- HOLDS A GAMING LICENSE UNDER G.L. c. 23K
- IS LICENSED TO CONDUCT LIVE HORSE RACING UNDER G.L. c. 128A
- IS A RUNNING HORSE RACING MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- IS A GREYHOUND MEETING LICENSEE THAT CONDUCTED SIMULCAST WAGERING AS OF 12/31/20
- OFFERS AN INTERACTIVE SPORTS WAGERING PLATFORM THROUGH A MOBILE APPLICATION OR OTHER DIGITAL PLATFORM

### TEMPORARY LICENSE FEE

A REQUEST FOR A TEMPORARY LICENSE SHALL INCLUDE AN INITIAL LICENSING FEE OF **\$1 MILLION** PAYABLE TO THE *MASSACHUSETTS GAMING COMMISSION*. FOR ELECTRONIC WIRING INSTRUCTIONS, PLEASE CONTACT DOUG O'DONNELL AT [douglas.odonnell@massgaming.gov](mailto:douglas.odonnell@massgaming.gov).

HAS THE TEMPORARY LICENSE FEE BEEN REMITTED (*please check one*): Yes  No

### SIGNATURE AND INFORMATION

I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.

\_\_\_\_\_  
Signature of authorized agent of entity

\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request to the Executive Director of the Commission via email at: [karen.wells@massgaming.gov](mailto:karen.wells@massgaming.gov).

Please refer to 205 CMR 219 (Temporary Licensing Procedures) and 205 CMR 221 (Sports Wagering License Fees) for further information.

**Legal – Todd Grossman, General Counsel**  
**In relation to item 2A :**

219.02 Temporary License Request Process

- A. Any Person who is eligible to request a Temporary License may submit a request for a Temporary License to the Executive Director on a form to be approved by the Commission. Such request shall be accompanied by an initial licensing fee of \$1,000,000 payable to the Commission.
- B. Upon receiving a request for a Temporary License, the Executive Director or their designee shall within **fourteen** days determine whether the requestor is eligible to request a Temporary License and has paid the initial licensing fee as described in 205 CMR 219.02, and make a written recommendation to the Commission as follows:
- a. If the Executive Director determines that the requestor is eligible and has paid the initial licensing fee, they shall recommend to the Commission that the Commission issue the requested Temporary License.
  - b. If the Executive Director determines that the requestor is not eligible or has not paid the initial licensing fee, they shall recommend to the Commission that the Commission deny the requested Temporary License.
- C. Upon receiving a recommendation from the Executive Director in accordance with 205 CMR 219.02(2), the Commission shall, at an open public meeting held within **fourteen** days, either issue or deny the requested Temporary License.
- a. The Commission shall send written notice of the public meeting to the requestor at least **seven** days in advance of the meeting.
  - b. The Commission may in its discretion receive comment or presentations from representatives of the requestor or from the public.

TO: Chair Cathy Judd-Stein; Commissioners Eileen O'Brien, Brad Hill, Nakisha Skinner and Jordan Maynard

FROM: Karen Wells, Executive Director; Crystal Beauchemin, Chief Administrative Officer to the Chair and Special Projects Manager

DATE: December 27, 2022

RE: Proposed Evaluation Process and Timeline for Sports Wagering Category 3-Untethered Applications

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As the Massachusetts Gaming Commission prepares for moving into evaluation of untethered category 3 Sports Wagering license applications, this memo intends to outline a summary of the proposed schedule and process for that review.

Under G.L. c. 23N § 6(b)(3), “[t]he Commission may issue a category 3 license to any entity that offers sports wagering through a mobile application or other digital platform that meets the requirements of this chapter and the rules and regulations of the Commission; provided, however, the Commission shall issue no more than 7 category 3 licenses that are not connected to a category 1 or category 2 license.”

In addition to the criteria utilized in the selection process for tethered cat 3 operators, the Commission further defined the evaluation process for untethered category 3 licenses through promulgation of 205 CMR 218.06 which reads:

*Additional considerations for applications for untethered Category 3 licenses*

- a. In determining whether a particular Applicant will be awarded an Untethered Category 3 License, the Commission shall take into consideration the variations between the Applicants as they relate to any other Sports Wagering License Applicants or licensees, and how granting any particular Application, or combination of Applications, would maximize overall benefits and minimize overall harms or the risk of harms to the Commonwealth.
- b. The Commission may, in its discretion, implement competitive processes for awarding Untethered Category 3 Licenses, and may, without limitation:
  - i. Utilize scored or unscored selection systems;
  - ii. Grant or deny one or more particular applications, while reserving action on other applications for future deliberation; or
  - iii. Review applications in multiple phases or rounds, and use different review methodologies in each phase or round.

Given those considerations, while the next phase of the review should generally remain consistent with the process that was utilized for reviewing the Category 1 (retail) and the Category 3-tethered applicants, some modifications to the approach are appropriate and allowable given the discretion given to the Commission in the law and the approach outlined in the regulations.

### **Recommendations for the Evaluation Process for Sports Wagering Category 3-Untethered Applications:**

- Request to all applicants that they attend the Jan. 6 meeting at 10am (this meeting is expected to be virtual) to ensure all applicants receive and understand the legal framework which will be laid out by Todd Grossman, General Counsel, as well as the guiding legislation, regulations and the evaluative process as well as any other overview or remarks provided by the Chair. This will eliminate the need to repeat this process at each meeting, allowing each session to be dedicated toward the Commissioners' review of the application and a greater adherence to the intended review schedule.
- In order to conduct a review of this category of applicants as outlined in 205 CMR 218.06, we recommend that votes not be taken on any application review date, and instead, be taken the end of the review process to determine which applicants will be granted the opportunity to be eligible for temporary licenses.
- As such, we recommend adding a review and analysis date after the Commission has conducted an initial review of all applications. This allows the Commission to return to any sections which required supplemental information and incorporates the opportunity for comparative review of the information provided by each applicant.

### **Process Overview (if recommendations are approved):**

A single agenda will be posted to mark up the entirety of the intended review dates, offering flexibility should the review need to continue to another date

#### **January 6 – Overview of Evaluative Process**

All six applicants for this category will be asked to attend the first portion of this meeting. The Chair will open the meeting and offer general overview on the review period and process. A legal framework will be provided by General Counsel Grossman including the relevant legislative language and a reliance on regulations which the Commission has determined. The Commission would take a brief break prior to moving into the first applicant's review.

#### **January 6-18 - Applicant Review Period** (according to timeline below)

Each date to include:

- Chair opening introductions/remarks
- Applicant presentation (30-45 min)
- Mobile platform demonstration and user functionality (30-45 min)

- Presentation regarding Technical Components from Katrina Jagroop-Gomes, MGC Chief Information Officer and Gaming Laboratories International ("GLI")
- Report on suitability of the Applicants from Heather Hall, Chief Enforcement Counsel, IEB
- Financial and Economic Impact Analysis from RSM US LLP
- General review of the application by section to determine completeness and/or any questions Commissioners have.
- A "temperature" may be taken on each segment as to whether it is viewed as meeting expectations or not, but a final determination on each segment will be deferred until the closing dates.
- Any necessary executive sessions
- Determination from the Commission of any cures and clarifications or supplemental materials required of the applicant.
- The Commission will recess and the Chair will announce when the meeting will resume.

### **January 19 - 20 Review and Final Determinations on Eligibility to Apply for a Temporary License under G.L. c. 23N § 6(c)(1)**

To facilitate this discussion, Commissioners would be provided in advance:

- An index/reference tool to assist in directing Commissioners to key components of the six applications and facilitate discussion
- Additional information supplied by RSM as requested by Commissioners
- All requested application cures, clarifications and supplemental materials

The Commission would at this time review, and discuss with applicants as necessary, responses by applicants to issues raised during the evaluation process.

The Commission would at this time, utilize the same model of determining whether the specific sections of each application meet or do not meet expectations and also take into consideration the variations between the applicants as they relate to any other sports wagering license applicants or licensees, and how granting any particular application, or combination of applications, would maximize overall benefits and minimize overall harms or the risk of harms to the Commonwealth. Commissioners would provide final comments and deliberate on which applicants ultimately are offered the opportunity to apply for a temporary sports wagering license in the Commonwealth of Massachusetts.

### **Timeline (if recommendations are approved):**

With the goal of finalizing the application review process on or before January 20, 2022, the proposed schedule for the review process is:

Jan 3-	Public Hearing re: Cat-3 untethered applications
Jan 6-	Cat-3 untethered SW Evaluation Overview Review of Bally's Interactive
Jan 9-	Review of BetFair (aka FanDuel)
Jan 10-	Review of BetR
Jan 11-	Review of Crown (aka DraftKings)
Jan 13-	Review of Digital Gaming Corp
Jan 17-	Review of PointsBet
Jan 18-	Carry over date
Jan 19-20	Review and Final Determination

It is important to note that after the applicants are selected through this process that they may then apply for a temporary license under MGL Ch. 23N Section 6(c)(1) and must receive a certificate of operations after a rigorous testing of their platforms by a certified independent test laboratory and approval by the Commission. This process is expected to be completed in March of 2023.

We look forward to the Commission's position on these recommendations.